IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10117 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Petitioner(s)

Versus

GHANSHYAMBHAI G GOHIL C/O MAZDOOR PANCHAYAT - Respondent(s)

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Appearance :

MR KL PANDYA A.G.P. for Petitioner No(s).: 1.

MR RJ OZA for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

1. This petition is directed against order dated 23rd March, 2000 whereby the Labour Court has rejected the Misc. Civil Application No. 61/99 and confirmed the judgment and award dated 2nd December, 1998 passed by the

Labour Court, Bhavnagar in Reference [L.C.B.] No. 198/95, whereby the Labour Court has directed the petitioner State to reinstate the respondent on this original post with continuity in service along with back wages.

2. The short facts of the case are that the respondent was working as a Rojamdar with the petitioner State. He had been working as such for the last six years. However, without following due procedure under the law, the services of the respondent came to be terminated w.e.f. 1st April, 1994.

2.1. Feeling aggrieved by the said order, the respondent raised an industrial dispute which was ultimately referred to the Labour Court, Bhavngar for adjudication. The Labour Court after considering the case on merits, passed the ex-parte impugned award. Feeling aggrieved by the ex-parte impugned award, the petitioner State preferred Misc. Civil Application No. 61/99, which came to be rejected vide order dated 23rd March, 2000. Hence, this petition.

3. I have heard the learned counsel for the parties. Having perused the materials produced on record,

it transpires that pursuant to the impugned award of the Labour Court, the respondent is reinstated in service w.e.f. 6th March, 1989. However, while admitting the petition, this Court vide order dated 27th September, 2000 has stayed the order qua back wages. Therefore, the only question which is required to be considered by this Court is with regard to the grant of back wages.

3.1. However, the Labour Court while granting back wages has not given cogent reasons. Moreover in view of the principle laid down by the Apex Court “No Work No Pay”, grant of back wages was not justified. Thus, the impugned order of the Labour Court qua the back wages is required to be quashed and set aside.

4. In the result, the petition is partly allowed. The award dated dated 2nd December, 1998 passed by the Labour Court, Bhavnagar in Reference [L.C.B.] No. 198/95, qua the direction with regard to the back wages is quashed and set aside. The rest of the award is confirmed. The petitioner shall grant the benefit of continuity in service and all other benefits from the date of the publication of the award till the payment is realized within a period of three months from the date

of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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